UNITED NATIONS

CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

Distr.
GENERAL

CEDAW/C/SR.259
22 March 1994
ENGLISH
ORIGINAL: RUSSIAN

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Thirteenth session

SUMMARY RECORD (PARTIAL)* OF THE 259th MEETING

Held at Headquarters, New York,
on Friday, 4 February 1994, at 6 p.m.

Chairperson: Ms. CORTI (Italy)

CONTENTS

Adoption of the report of the Committee (continued)

* No summary record was prepared for the period from 7.45 p.m. to 9 p.m.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Office of Conference Services, room DC2-794, 2 United Nations Plaza.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 6.05 p.m.

ADOPTION OF THE REPORT OF THE COMMITTEE (continued) (CEDAW/C/1994/L.1/Add.1-16; CEDAW/C/1994/WG.II/WP.2/Rev.1)

General recommendation No. 21 (fourteenth session): Equality in marriage and family relations (CEDAW/C/1994/WG.II/WP.2/Rev.1)

1. Ms. SINEGIORGIS suggested that, in view of the limited time available to the Committee, members wishing to make proposals or comments regarding the general recommendation should state them as concisely as possible so that the Committee would be able to adopt the draft document.

2. The CHAIRPERSON suggested that the Committee should adopt the recommendation by consensus, section by section.

Introduction and background

3. The section containing the introduction and background to the recommendation was adopted.

Article 9

4. The text of the comment on article 9 was adopted.

Article 15

5. Paragraphs (a) to (d) of the comment on article 15 were adopted.

Article 16

6. Paragraphs 1 and 2 of article 16 were adopted.

7. The comment on the sections entitled "Public and private life" and "Various forms of family" was adopted.

Polygamous marriages

8. Ms. UKEJE proposed that the text in that section should be deleted or redrafted.

9. The CHAIRPERSON requested Ms. Ukeje to submit her proposed amendments in written form for the Committee to examine later.

Article 16 (1) (a) to (c)

10. The comment on article 16 (1) (a) to (c) was adopted.

Article 16 (1) (d) and (f)

11. The comment on article 16 (1) (d) and (f) was adopted.

Article 16 (1) (e)

12. Ms. GARCIA-PRINCE proposed that the phrase "or whether to interrupt a pregnancy" in the second paragraph of the comment should be deleted.

13. Ms. CARTWRIGHT said she supported the proposal of the previous speaker and believed it was also necessary to insert the word "abortions" following the phrase "forced pregnancies" in that paragraph.

14. The comment on article 16 (1) (e), as orally amended, was adopted.

Article 16 (1) (g)

15. Ms. BRAVO DE RAMSEY proposed the insertion of the words "y conservar" after the phrase "el derecho a escoger" in the sixth line of the Spanish-language text of the comment on that subparagraph; and the insertion of the words "y identidad" in the eighth line following the phrase "manteniendo una individualidad".

16. The comment on article 16 (1) (g) was adopted.

Article 16 (1) (h)

17. Ms. NIKOLAEVA proposed that the first two paragraphs of the comment on that subparagraph should be deleted, since similar wording was already included in the comment on article 15.

18. Ms. AOUIJ thought the previous speaker's proposal was justified, in that, to a certain degree, the provisions of paragraphs 15 and 16 of the Convention were similar. However, repetition sometimes served a purpose.

19. The comment on article 16 (1) (h) was adopted.

Marital property

20. Ms. SCHÖPP-SCHILLING proposed that the words "women with or without children" should be inserted following the words "against married" in the last line of the last paragraph of that section.

21. The comment on the section entitled "Marital property", as orally amended, was adopted.

Inheritance

22. The comment on the section entitled "Inheritance" was adopted.

Article 16 (2)

23. The comment on article 16 (2) was adopted.

Recommendations

Violence against women

24. The section entitled "Violence against women" was adopted.

Reservations

25. Ms. CARTWRIGHT proposed that the words "especially when a reservation has also been entered to article 2" should be inserted in the second line of the first paragraph after the phrase "to the whole or part of article 16,".

26. Ms. SCHÖPP-SCHILLING proposed that the words "and other extremist" should be inserted in the third line of the second paragraph after the word "fundamentalist".

27. The section entitled "Reservations", as amended, was adopted.

Reports

28. The section entitled "Reports" was adopted.

Legislation

29. Ms. GARCIA-PRINCE and Ms. AOUIJ proposed that the section entitled "Legislation" should briefly reflect the recommendations contained in paragraphs 28.2, 34.3, 40.2, 44.1, 44.2, 47.2, 49.2, 61.2 and 66.2 of document CEDAW/C/1994/WG.II/WP.27. Those concrete recommendations could serve as an effective basis for the activities of States in elaborating and adopting legislation.

30. Ms. BUSTELO proposed an amendment to the Spanish text of the document.

31. Ms. SCHÖPP-SCHILLING said that document CEDAW/C/1994/WG.II/WP.2/Rev.1 was a completely new document and therefore, if it reflected recommendations contained in another document, that would distort its structure. Accordingly, she was opposed to the proposal made by Ms. Garcia-Prince.

32. Ms. GARCIA-PRINCE, supported by Ms. AOUIJ, said that before making her proposal, she had carefully studied the recommendations adopted at the previous session that were directly related to the specific legislative measures which might constitute a basis for the activities of States. Including specific recommendations in the document under consideration would undoubtedly enhance its effectiveness.

33. Ms. CARTWRIGHT said that, if the members of the Committee decided to reflect the recommendations in question in the document, they would have to be reworded since they must be in accordance with the provisions of the text under consideration. Furthermore, including detailed recommendations in the section on "Legislation" would mean that the members of the Committee were giving particular emphasis precisely to that part of the General Recommendation, which would distort the balanced nature of the text as a whole.

34. Ms. GARCIA-PRINCE said that there was no need to reproduce the recommendations word for word in the document under consideration. Nevertheless, their spirit should definitely be reflected in the section in question since the recommendations requiring States to amend their legislation were particularly important for the countries of Latin America, for example, Guatemala, whose civil code permitted discrimination against women and whose judicial authorities handed down decisions in support of such discrimination. The recommendations might also apply to the countries of Asia and Africa.

35. Ms. AOUIJ said that any activity aimed at enhancing the status of women should begin by making the necessary changes in legislation. The recommendations in question, therefore, were of paramount importance and, after some possible minor redrafting, should be included in the text of the document.

36. Ms. SCHÖPP-SCHILLING said that before discussing the question of General Recommendation No. 21, the members of the Committee had agreed that only minor additions would be included in the text. Reflecting concrete recommendations in the text would distort its overall balance. Furthermore, if the members of the Committee considered it advisable to reflect those recommendations in the document, they should discuss in detail which specific recommendations would be included, and that might delay the adoption of a consensus decision.

37. Ms. BUSTELO referred to article 9 of the Convention, which provided that States parties should grant women equal rights to acquire, change or retain their nationality and equal rights with respect to the nationality of their children. The comment on that article dealt with the reasons necessitating its adoption and referred to the negative consequences for women that might result from not taking measures to bring national legislation into line with the provisions of the Convention. Accordingly, it seemed inadvisable to reproduce in the text of General Recommendation No. 21 what had already been stated in the comment.

38. Ms. SINEGIORGIS, speaking on a point of order, proposed, in view of the lack of consensus on the amendments put forward by Ms. Garcia-Prince, that they should be put to a vote.

39. The CHAIRPERSON said that voting on the proposed amendments did not seem desirable.

40. Ms. GARCIA-PRINCE said that she wished to withdraw her amendments since most of the members of the Committee favoured maintaining the balanced structure of the General Recommendation.

41. The section entitled "Legislation" was adopted.

42. The CHAIRPERSON proposed that the members of the Committee should adopt the section entitled "Encouraging compliance with the Convention".

43. The section entitled "Encouraging compliance with the Convention" was adopted.

44. The CHAIRPERSON proposed that the members of the Committee should resume consideration of the section entitled "Polygamous marriages" in order to discuss the amendments to that section proposed by Ms. Ukeje.

45. Ms. UKEJE proposed deleting a number of phrases in the text and rewording the paragraph to read: "States parties' reports disclose that polygamy is practised in a number of countries. The Committee notes with concern that some States parties, whose constitutions guarantee equal rights, permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women and breaches the provisions of article 5 (a) of the Convention".

46. Ms. CARTWRIGHT said that she was opposed to the proposed amendments since that section had been drafted at the previous session and agreed in essence at plenary meetings. Deleting a considerable part of that section was not in keeping with the approach which the members of the Committee applied with regard to the remaining sections of the document.

47. Ms. SINEGIORGIS said that the new text was a short version of the basic provisions of the section and that she supported the proposed amendments.

48. Ms. CARTWRIGHT said that she wished merely to remind the members of the Committee that the text of that section had already been agreed.

49. Ms. SCHÖPP-SCHILLING said that it was a question of principle. Since the Committee had agreed to avoid making substantive changes in the sections of the document, it seemed inappropriate to do that in the section entitled "Polygamous marriages".

50. Ms. UKEJE said that the purpose of her proposed amendments was to preclude strong objections on the part of some States if the provisions proposed for deletion were maintained.

51. Ms. FORDE proposed, as a compromise solution, that the Committee should adopt the amendments put forward and retain in the section the second sentence which there had been a proposal to delete.

52. Ms. UKEJE said it was inappropriate to say that the provisions of that section had been agreed at the previous session since there was a substantial difference between the agreed text and the revised text.

53. Ms. TALLAWY, speaking on a point of order, said that, in view of the limited amount of time available to adopt the report of the Committee on its current session, it seemed advisable to adopt the amendments proposed.

54. The section entitled "Polygamous marriages" was adopted as amended.

55. General Recommendation No. 21 was adopted.

56. The CHAIRPERSON suggested that the Committee should consider adopting its report.

Document CEDAW/C/1994/L.1

57. Ms. QUINTOS-DELES, Rapporteur, introducing the draft report, proposed that the sentence "The third informal working group held four meetings during recesses for lunch." should be added at the end of the third paragraph.

58. Ms. ILIC said that in paragraph 29 (a) (i) the words "Human Rights Committee" should be replaced by the words "Commission on Human Rights" and that subparagraph 29 (c) should be deleted since that question had been considered by Working Group II. Furthermore, the report should reflect the fact that because of a lack of information and documentation and owing to limited time, Working Group III had not considered all those questions.

59. Document CEDAW/C/1994/L.1, as amended, was adopted.

Document CEDAW/C/1994/L.1/Add.1

60. Ms. QUINTOS-DELES said that, in follow-up remarks, members of the Committee had asked about a transfer of responsibility on women's issues to the regional and municipal levels and had requested information on that in subsequent reports. In addition, the addition of the following sentence at the end of paragraph 51 was proposed: "Members commented that the labour-market schemes and targets for unemployed women were not obligatory enough for officials."

61. Document CEDAW/C/1994/L.1/Add.1, as revised, was adopted.

Document CEDAW/C/1994/L.1/Add.2

62. Document CEDAW/C/1994/L.1/Add.2 was adopted.

Document CEDAW/C/1994/L.1/Add.3

63. Ms. QUINTOS-DELES said that one representative had proposed an amendment to paragraph 27 indicating that the paragraph reflected the views not of the Committee but of one representative. If the members of the Committee considered that inappropriate, she would not object to the adoption of the paragraph without amendment.

64. Document CEDAW/C/1994/L.1/Add.3 was adopted.

Document CEDAW/C/1994/L.1/Add.4

65. Ms. TALLAWY proposed the following amendment to the end of paragraph 45: "... the representative said that marriage to the mother, sister, niece or aunt was banned. However, other marriages between close kin were permitted."

66. Ms. QUINTOS-DELES said that those amendments had been proposed and accepted, since they clarified the wording without changing the substance of that paragraph.

67. Document CEDAW/C/1994/L.1/Add.4, as revised, was adopted.

Document CEDAW/C/1994/L.1/Add.5

68. Document CEDAW/C/1994/L.1/Add.5 was adopted.

Document CEDAW/C/1994/L.1/Add.6

69. Ms. ABAKA said that the draft report did not reflect the comments of members of the Committee concerning the fact that they had been unable to examine the report before it had been presented.

70. Ms. UKEJE said that Ms. Abaka was presumably referring to paragraph 11, although it was worded somewhat differently.

71. Document CEDAW/C/1994/L.1/Add.6, as amended, was adopted.

Document CEDAW/C/1994/L.1/Add.7

72. Ms. BUSTELO said that in paragraph 9 the last sentence should be deleted; there was a direct reference in paragraph 30 to the Constitutional Court, while the concluding comments referred to the Supreme Court. Those references should be consistent.

73. Document CEDAW/C/1994/L.1/Add.7, as amended, was adopted.

Document CEDAW/C/1994/L.1/Add.8

74. Document CEDAW/C/1994/L.1/Add.8 was adopted.

Document CEDAW/C/1994/L.1/Add.9

75. Ms. BUSTELO said that, in paragraph 10, the year "1924" should be corrected to read "1929".

76. Document CEDAW/C/1994/L.1/Add.9, as corrected, was adopted.

Document CEDAW/C/1994/L.1/Add.10

77. Document CEDAW/C/1994/L.1/Add.10 was adopted.

Document CEDAW/C/1994/L.1/Add.11

78. Document CEDAW/C/1994/L.1/Add.11 was adopted.

Document CEDAW/C/1994/L.1/Add.12

79. Ms. QUINTOS-DELES said that it had been proposed that, in the last sentence of paragraph 7, after "the issues of", the words "the personnel-management systems affecting women's employment" should be inserted. It had also been proposed that, in the penultimate sentence of paragraph 31, after "victims", the words "without their having to go to court individually, and should create a women's fund in memory of those who had died in the meantime" should be inserted. In addition, in paragraph 53 after the word "law", the following new

(Ms. Quintos-Deles)

sentence should be added: "The question was raised whether the Government had an understanding of the concept of indirect discrimination, of which such separate-track systems were an example; the Government was urged to include that concept when reforming the Equal Employment Opportunity Act."

80. Ms. TALLAWY said that the question of paying compensation, referred to in paragraph 31, was a legal one about which there was no single opinion. Consequently, the wording at the beginning of the paragraph should be changed to indicate that that was not the view of all members of the Committee.

81. Ms. SCHÖPP-SCHILLING said that she agreed with the previous speaker.

82. Document CEDAW/C/1994/L.1/Add.12, as amended, was adopted.

Document CEDAW/C/1994/L.1/Add.13

83. Ms. BUSTELO said that the wording of the second part of the second sentence in paragraph 7 was not entirely consistent with that proposed by the working group, which had recommended the following sentence to replace the last clause: "In spite of the fact that some women had assumed high political positions, their representation in political decision-making was still very limited." In paragraph 16 the reference to "a draft law" was incorrect, since two draft laws had been submitted - one on sexual violence and sexual harassment, and the other on the participation of women in public administration. In paragraph 21 the word "commissions" should be replaced by the word "commissariats". Paragraph 34 of the Spanish text stated that members were concerned that more attention was not devoted in the law to the issue of education. With regard to article 16, it was noted that the scope of the 1992 law concerning divorce proceedings had been expanded to include divorce by mutual consent.

84. Document CEDAW/C/1994/L.1/Add.13, as amended, was adopted.

Document CEDAW/C/1994/L.1/Add.14

85. Document CEDAW/C/1994/L.1/Add.14 was adopted.

Document CEDAW/C/1994/L.1/Add.15

86. Document CEDAW/C/1994/L.1/Add.15 was adopted.

Document CEDAW/C/1994/L.1/Add.16

87. Ms. QUINTOS-DELES said that, in the second sentence of paragraph 9, it was proposed that, after the word "between", the words "the three constituent peoples -" should be inserted, and also that at the end of the sentence the words "and the Federal Republic of Yugoslavia had no territorial claims to Bosnia and Herzegovina" should be added. In paragraph 12, the part of the sentence following the word "embargo" should be deleted, as should the words "in that context" in the following sentence. In the first sentence of paragraph 16, after the word "countries", it was proposed that the following phrase should be inserted: "and if that was related to incidents of massive rape".

88. Ms. BUSTELO pointed out that the reports of States parties had been considered differently at the current session compared with what had been done previously. In the past, first a report had been considered and then questions had been raised. During the current session, that order had not always been followed, and therefore it was necessary to decide in future what method to use.

89. The discussion covered in the summary record ended at 7.45 p.m.

90. The discussion covered in the summary record resumed at 9 p.m.

91. The CHAIRPERSON said that, in her discussion with the Secretary-General, she had asked him to recommend officially to the Centre for Human Rights in Geneva that it should ensure that there was an organizational link between the Committee and the Division for the Advancement of Women, and not only to provide the Committee with materials but also to consider the possibility of making available to it all the facilities enjoyed by other treaty bodies. She was somewhat optimistic concerning the Secretary-General's promise to consider the relevant documentation and to do his utmost to correct the existing situation.

92. After an exchange of courtesies, the CHAIRPERSON declared the session closed.

The meeting rose at 9.15 p.m.